

September 2, 2008

The Honorable Kay Bailey Hutchison  
284 Russell Senate Office Building  
Washington, DC 20510

\*\*\*Via Facsimile 202-224-0776\*\*\*

Re: WT Docket No. 08-165, *In the Matter of Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance, Petition for Declaratory Ruling.*

Dear Senator Hutchison:

I am writing on behalf of the Texas Municipal League to express our concern regarding a petition that was recently filed with the Federal Communications Commission (FCC). CTIA, the wireless association, is essentially seeking FCC preemption over local zoning of wireless phone tower locations.

CTIA complains that local zoning procedures have the effect of limiting competition in the provision of wireless phone service. Specifically, CTIA is requesting that the FCC: (1) impose a 45-day or 75-day "shot clock" on local zoning decisions regarding wireless towers; (2) interpret Section 332(c)(7) of the federal Telecommunications Act (Act) as barring any local zoning decision that prevents a wireless provider from offering service in an area where another wireless carrier is already providing service; and (3) interpret Section 253 of the Act as preempting any local zoning that would, for example, require a wireless tower to comply with a zoning variance process.

Many city ordinances, pursuant to state law, require various notices and hearings to determine whether a particular location is appropriate for a wireless tower. CTIA's request ignores the wishes of city residents and would have the effect of making the FCC a "national zoning board."

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Cities regulate wireless towers because that is what citizens demand. Congress recognizes that fact, and an FCC order that preempts local zoning authority would undercut the preservation of local zoning authority in the Act. Current law promotes competition in the industry, and we ask for your assistance in preserving the authority of city officials to respond to the demands of their constituents.

Thank you for your continued devotion to Texas cities. Please let me know if we can be of any assistance.

Sincerely,

Frank J. Sturzl

cc: Federal Communications Commission (via electronic filing)